

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DENNIS JOHN TIMS,

Plaintiff,

v.

DAVE FIELDS and
NURSE KLOVAS,

Defendants.

ORDER

19-cv-508-wmc

Pro se plaintiff Tims is proceeding to trial on June 12, 2023, on his Fourteenth Amendment claims that defendants Fields and Klovas failed to provide him needed dental care in 2019 while held at the Clark County Jail. The court previously reserved on Tims' motions for issuance of subpoenas for eight witnesses, and now Tims has filed an amended witness list and supporting information and materials as previously directed by the court, including witnesses to appear via videoconference. (Dkt. #226.) The court rules as follows as to those witnesses:

Dr. David Walther, Dodge Correctional Institution ("Dodge") Dentist: Tims represents that this witness was working at Dodge on August 21, 2019, discussed his tooth and decided on extraction. Because this information is relevant to Tims' claim and injuries, the motion for issuance of subpoena is GRANTED as to Dr. Walther.

Dr. Steven R. Kinziger, Dodge Dentist: Tims represents that this witness received his dental service request at Dodge, put Tims on the list to be seen and extracted Tims' tooth in October of 2019. Tims' motion as to Dr. Kinziger is GRANTED.

Emily, Assistant to Dr. Kinziger: Tims recalls that Dr. Kinziger's assistant, Emily, was present and witnessed Tims' discomfort during the tooth extraction. It appears Emily's testimony would be duplicative of Dr. Kinziger's, and Tims has not determined her identity. Therefore, the court must DENY his motion for issuance of a subpoena.

Dr. Paul Ganshert, Waupun Correctional Institution Dentist: This witness was a dentist who treated Tims at Waupun in October of 2019 and March and December of 2020. Dr. Ganshert apparently discussed with Tims a possible complication from the extraction. Tims' motion as to Dr. Ganshert is GRANTED.

Brendt King, Clark County Jail Officer: While the court already granted this motion, King is also listed on defendant Klovas's witness list (dkt. #239), so a subpoena no longer appears necessary. The court will allow Tims to call King as an adverse witness. **If defendant Klovas no longer intends to call King as a witness, counsel must immediately notify the court so it can issue a subpoena for King's testimony.**

Laci Tlusty, Clark County Jail Officer: Tims represents that this witness was present for the June 4, 2019, examination by defendant Fields and filed a report about it. This motion is GRANTED.

Jamie Gomez, Clark County Jail Officer: Tims has withdrawn his request for a subpoena as to this witness, so it is MOOT.

Captain Todd Tessman, Clark County Jail Officer: Because both defendants intend to call Tessman as a witness, the court will RESERVE on Tims' motion for a subpoena for his testimony. **Like King, if either defendant decides not to call Tessman as a**

witness, counsel must immediately notify the court so it can issue a subpoena for Tessman's testimony.

Dr. Amy Schneider, Clark County Jail Medical Provider: Tims represents that Dr. Schneider became the jail's new medical provider on July 1, 2019. But Tims does not represent that Dr. Schneider ever interacted with him, reviewed his records or was aware of his dental history or needs. Therefore, Tims' motion as to Dr. Schneider is DENIED.

In short, the court will issue subpoenas for the videoconference testimony of Dr. Walther, Dr. Kinziger, Dr. Ganshert, and Laci Tlusty. Accordingly, the total amount Tims owes in witness fees is \$160. While Tims remitted a check made out to the court in the amount of \$320, he must submit individual checks for \$40 made out to the witnesses individually; the court cannot issue checks on Tims' behalf. Therefore, the clerk of court is returning the \$320 check to Tims, and Tims may have until June 1, 2023, to submit the individual checks. Once the court receives those checks, it will direct the clerk of court to issue subpoenas to Dr. Walther, Dr. Kinziger, Dr. Ganshert, and Laci Tlusty.

ORDER

- 1) Plaintiff Dennis Tims motion for issuance of subpoenas (dkt. #226) is GRANTED as to Dr. Walther, Dr. Kinziger, Dr. Ganshert, and Laci Tlusty, and DENIED as to Emily, Gomez, Tessman and Schnieder.
- 2) Tims has until **June 1, 2023**, to remit to the court individual checks for \$40, made out to Dr. Walther, Dr. Kinziger, Dr. Ganshert and Laci Tlusty.

3) The clerk of court is directed to forward this order to Waupun's litigation coordinator to ensure that Tims receives it today.

Entered this 26th day of May, 2023.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge